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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,765	01/07/2002	Daniel Ahles	34250-1142	3190
7590 11/26/2008				
Malvern U. Griffin III SUTHERLAND ASBILL & BRENNAN LLP 999 Peachtree Street, N.E. Atlanta, GA 30309-3996				
EXAMINER				
CAMPEN, KELLY SCAGGS				
ART UNIT		PAPER NUMBER		
3691				
MAIL DATE		DELIVERY MODE		
11/26/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/041,765

Applicant(s)

AHLES, DANIEL

Examiner

KELLY CAMPEN

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-82 is/are pending in the application.
- 4a) Of the above claim(s) 1-30 and 40-82 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/11/2008 has been entered.

Specification

The abstract of the disclosure is objected to because it includes purported merits (see below, emphasis added). Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 31-39 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 31-39 recite a process comprising the steps of selectively determining. Based on Supreme Court precedent, a proper process must be tied to another statutory class or transform underlying subject matter to a different state or thing (*Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876)). Since neither of these requirements is met by the claim, the method is not considered a patent eligible process under 35 U.S.C. 101. To qualify as a statutory process, the claim should positively recite the other statutory class to which it is tied, for example by identifying the apparatus that accomplished the method steps or positively reciting the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 31-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically as to claim 31, the use of the term "selectively" is unclear and vague as it is unclear what is being selected or if it is the score or the model that is selectively determined. In addition, "at least in part" is indefinite as it is unclear whether or not the claimed invention would be reproducible without undue experimentation. The terms lead to the question of what else is it based on?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 31-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Templeton et al. (US 5679940).

Specifically as to claim 31, Templeton et al. disclose a method for processing financial transactions by selectively determining with a first scoring model a first risk score for a financial transaction (see col 11, lines 9-34, col 12 lines 52 through col. 13 line 17); and selectively determining based at least in part on the first risk score, whether to determine a second risk score

with a second scoring model that is different than the first scoring model (see col 14, lines 20-27 “additional information provided”).

Specifically as to claim 32, wherein the financial transaction is a check transaction (see above rejection for claim 31, in addition, see col 12, lines 52-53).

Specifically as to claim 33, wherein selectively determining the first risk score comprises obtaining data associated with the financial transaction and evaluating the data (see above rejection for claim 31, in addition, see col 12, line 52 through col 13 line 17).

Specifically as to claim 34, wherein obtaining the data comprises receiving a transaction authorization request from a merchant (see above rejection for claim 33, in addition, see col 12, line 64 through col 13 line 17).

Specifically as to claim 35, wherein evaluating the transaction comprises invoking a first scoring model from a plurality of scoring models, wherein the first scoring model calculates the first risk score (see above rejection for claim 33, in addition, see col 13, line 18 through col 14 line 27).

Specifically as to claim 36, wherein selectively determining whether to determine the second risk score comprises evaluating the first risk score, wherein the second risk score is determined if the first risk score is lower than a predetermined first cutoff value, wherein the transaction is authorized otherwise (see above rejection for claim 31, in addition, see col 14, lines 15-27).

Specifically as to claim 37, determining the second risk score with the second scoring model; and determining whether to authorize the transaction based at least in part on the second risk score (see above rejection for claim 36, in addition, see col 14, lines 20-27).

Specifically as to claim 38, wherein determining the second risk score comprises invoking the second scoring model from a plurality of scoring models, wherein the second scoring model calculates the second risk score (see above rejection for claim 37, in addition, see col 14, lines 20-46).

Specifically as to claim 39, wherein determining whether to authorize the transaction comprises evaluating the second risk score, wherein the transaction is authorized if the second risk score is higher than a predetermined second cutoff score (see above rejection for claim 37, in addition, see col 13, lines 55-67 and col 14, lines 20-46).

Response to Arguments

Applicant's arguments with respect to claims 31-39 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KELLY CAMPEN whose telephone number is (571)272-6740. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kelly Campen/
Examiner, Art Unit 3691